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DATE MAILED: 05/20/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/532,509	03/21/2000	Alexander E. Quilici	57921/103	6799
75	90 05/20/2003			
Paul S Hunter			EXAMINER	
Foley & Lardner Firstar Center			MCCLELLAN, JAMES S	
777 East Wisconsin Avenue Milwaukee, WI 53202-5367			ART UNIT	PAPER NUMBER
•			3627	

Please find below and/or attached an Office communication concerning this application or proceeding.

•	Application No.	Applicant(s)			
Office Action Summary	09/532,509	QUILICI ET AL.			
Office Action Summary	Examiner	Art Unit			
The MAIL INC DATE of this communication and	James S McClellan	3627			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  Status					
1) Responsive to communication(s) filed on 21 h	<u> March 2000</u> .				
2a) This action is <b>FINAL</b> . 2b) ⊠ Thi	is action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. <b>Disposition of Claims</b>					
4)⊠ Claim(s) <u>1-22</u> is/are pending in the application.					
4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.					
6) Claim(s) is/are rejected.					
7) Claim(s) is/are objected to.					
8) Claim(s) 1-22 are subject to restriction and/or election requirement.					
Application Papers					
9) The specification is objected to by the Examiner.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.					
If approved, corrected drawings are required in reply to this Office action.					
12) The oath or declaration is objected to by the Examiner.					
Priority under 35 U.S.C. §§ 119 and 120					
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).					
a) ☐ All b) ☐ Some * c) ☐ None of:					
1. Certified copies of the priority documents have been received.					
2. Certified copies of the priority documents have been received in Application No					
3. Copies of the certified copies of the priority documents have been received in this National Stage					
application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.					
14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).					
a) ☐ The translation of the foreign language provisional application has been received. 15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.					
Attachment(s)					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal F	r (PTO-413) Paper No(s) Patent Application (PTO-152)			

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## DETAILED ACTION

## Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

 Claims 1-8, drawn to a method of executing a transaction using a telephone, classified in class 705, subclass 26.

II. Claims 9-22, drawn to an apparatus for voice controlled transaction using a telephone over the Internet, classified in class 379, subclass 88.17.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, Invention I does not require processing the transaction over the Internet as required by invention II. Therefore, the process can used with a materially different product that does not require Internet access.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Paul Hunter on 5/16/03 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## **Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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Any response to this action should be mailed to:

Commissioner of Patent and Trademarks Washington D.C. 20231

or faxed to:

(703) 305-7687 (Official communications) or (703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,

Arlington, VA, 7<sup>th</sup> floor receptionist.

James S. McClellan Patent Examiner A.U. 3627

jsm Mov. 1

May 16, 2003